IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 21601 of 2007(V)

OS.551/2006 of PRL.M.C.KOZHIKODE-I
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PETITIONER:

PAYYAMBADI SYED, S/O.ABOOBACKER, AGED 24 YEARS, REPRESENTED BY HIS POWER OF ATTORNEY HOLDER PAYYAMBADI ABDURAHIMAN, AGED 60 YEARS, S/O.AHAMMEDAJI, KOZHIKODE TALUK, THACHAMPOYIL P.O KEDAVOOR AMSOM DESOM, KOZHIKODE DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS:

THE CHIEF MANAGER, SOUTH INDIAN BANK LTD KOZHIKODE REGIONAL OFFICE, PB.NO.933, "CHAKKORATHKULAM", WEST HILL P.O., KOZHIKODE - 5.

BY S.C. FOR SIB, SRI. K. PRABHAKARAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 21601 OF 2007

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Dated this the 13th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order passed by the learned Munsiff-I, Kozhikode in I.A.4035/06 in OS 551/06. The said application was filed to remit the Commissioner's plan and report to identify the property with the assistance of Taluk Surveyor. Even in the Commissioner's plan and report, Ext.P3, it is stated by the Commissioner that without the help of a surveyor the entire property cannot be measured and there are no survey stones available at this spot. If really the property's identification is a must for the determination of the case then necessarily one has to get the property's plan and report. Incidentally that question may arise because the suit is regarding the identity of the property and it is the property that is sought to be proceeded by the Bank under the Securitisation Act. If the application for remission lacks particulars I direct the writ petitioner to amend the said application by incorporating necessary

particulars and thereafter Court should give an opportunity to the respondent to file counter on the said application and then dispose of the matter in accordance with law. Therefore, the order under challenge is set aside and the matter is remitted back to the Principal Munsiff-I, Kozhikode for fresh consideration in the light of the observations made above. Parties are directed to appear before the Court below on 19.7.07. It is made clear that the trial shall not be proceeded with, without disposing of this application.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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